

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VICTORIA GENERAO, JOHN DAVID
CRAWFORD,

Plaintiff,

v.

BJE LLC, RANDALL D MARTIN,
JEROME A FROLAND, ALDER LYNN
LAW FIRM, LISA M JOHNSON,
THOMAS S LINDE, SCHWEET LINDE
& COULSON PLLC, ROBIN W
TRICKLER, LAW OFFICES OF ROBIN
TRICKLER PLLC, DOES 1 THROUGH
100,

Defendant.

CASE NO. C14-5082 RBL

ORDER DENYING APPLICATION
TO PROCEED IN FORMA
PAUPERIS AND REQUEST FOR
TEMPORARY RESTRAINING
ORDER

THIS MATTER is before the Court on Plaintiff's application to proceed *in forma pauperis* and their request for an emergency hearing on their motion for a temporary restraining order in their Complaint. Plaintiffs apparently live in a home that has been foreclosed upon and will be evicted at 6:00 am on January 30, 2014. They filed the current lawsuit on January 28th to avoid being evicted. Because their Complaint is frivolous on its face, Plaintiff's request to proceed *in forma pauperis* is **DENIED** and their request for an emergency TRO is **DENIED**.

1 A district court may permit indigent litigants to proceed *in forma pauperis* upon
 2 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
 3 discretion in resolving the application, but “the privilege of proceeding *in forma pauperis* in civil
 4 actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th
 5 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed
 6 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the
 7 action is frivolous or without merit.” *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369
 8 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
 9 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
 10 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
 11 1984).

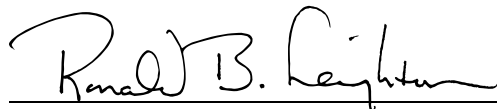
12 The purpose of a TRO is “preserving the status quo and preventing irreparable harm just
 13 so long as is necessary to hold a hearing [on the preliminary injunction application], and no
 14 longer.” *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers*, 415
 15 U.S. 423 (1974); *see also Reno Air Racing Ass’n v. McCord*, 452 F.3d 1126, 1130-31 (9th Cir.
 16 2006). To obtain a TRO or a preliminary injunction, the moving party must show: (1) a
 17 likelihood of success on the merits; (2) a likelihood of irreparable harm to the moving party in
 18 the absence of preliminary relief; (3) that a balance of equities tips in the favor of the moving
 19 party; and (4) that an injunction is in the public interest. *Winter v. Natural Res. Def. Council,*
 20 *Inc.*, 555 U.S. 7, 129 S. Ct. 365, 376 (2008).

21 Plaintiffs request for a TRO and application to proceed *in forma pauperis* must be denied
 22 because their Complaint is frivolous on its face and they cannot show that they are likely to
 23 succeed on the merits. Plaintiffs admit in their Complaint that they stopped paying their
 24

1 mortgage and that their home has already been foreclosed upon. They claim that they stopped
2 paying the mortgage because they were concerned “about the business ethics and practices of
3 financial institutions” and wanted to make sure that their home purchase was not a fraudulent
4 transaction. Nowhere in the Complaint have the Plaintiffs presented a cognizable legal theory
5 that would permit them to simply stop paying a legal debt that they acknowledge they are
6 responsible for. They contend that UCC § 1-308¹ somehow protects them from further abuse by
7 financial institutions, that the Defendants have ignored their demand to validate the debt, and that
8 they are “in the process of perfecting their secure creditor status with the United States
9 Treasury.” However, they have failed to cite, and the Court is not aware of, any legal authority
10 that support their theories. Plaintiffs’ Complaint is frivolous and they cannot meet their burden
11 of demonstrating likelihood of success on the merits.

12 Plaintiffs’ application to proceed *in forma pauperis* is **DENIED**, and their request for a
13 TRO is also **DENIED**.

14 Dated this 29th day of January, 2014.

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16

17 RONALD B. LEIGHTON
18 UNITED STATES DISTRICT JUDGE
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22 ¹ UCC § 1-308 provides that, “A party that with explicit reservation of rights performs or
23 promises performance or assents to performance in a manner demanded or offered by the other
24 party does not thereby prejudice the rights reserved.”